IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

WP(C).No. 29138 of 2006(R)

PETITIONER:

V.J.JOSE,
ASSISTANT EXCISE COMMISSIONER,
EXCISE INTELLIGENCE & INVESTIGATION BUREAU,
CENTRAL ZONE, ERNAKULAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT,
TAXES (F) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE EXCISE COMMISSIONER,
EXCISE COMMISSIONERATE, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 29138 OF 2006

Dated this the 15th November, 2006.

JUDGMENT

Heard both sides.

2. The petitioner is working as Assistant Excise Commissioner. Disciplinary proceedings evidenced by Ext.P1 memo of charges dated 12.5.2004, Ext.P3 memo of charges dated 17.4.2006 and Ext.P4 memo of charges dated 29.1.1997 are impediments in considering the case of the petitioner for promotion to the next higher post. Feeling aggrieved by the delay in finalising the disciplinary proceedings, this writ petition has been filed.

3. Govt. Pleader on instruction, submits that the formal enquiry into the charges vide Ext.P1 proceedings is over and the enquiring authority has filed its report. Counsel for the petitioner submits that the petitioner has filed his explanation to the findings of the enquiring authority, and therefore, what remains is only the passing of the final order.

4. Ext.P3 proceedings is also at the final stage. The enquiring authority has filed its report, the petitioner has filed his representation against the findings in the enquiry report and the matter is pending with the disciplinary authority for final orders.

5. The third proceedings which commenced by the issuance of Ext.P5 memo of charges have attained finality as per the order of the disciplinary authority awarding on the petitioner, the penalty of withholding two increments.

6. Govt. Pleader submits that some more time is required to pass final orders in respect of Exts.P1 and P3 proceedings.

7. Since the formal enquiry is over and what remains to be done is the consideration of the enquiry report and other materials on record, final orders can be passed within a maximum period of one month. Hence there shall be an order directing the first respondent to pass final orders in Exts.P1 and P3 proceedings, as early as possible, in any event, within one month on the petitioner producing a copy of the judgment along with a copy of the writ petition.

8. Against Ext.P6 order passed by the first respondent finalising Ext.P5 proceedings, the petitioner has preferred Ext.P7 review petition on 6.10.2006.

9. The petitioner is due to retire from service by the end of March 2007 and he is interested in getting his case considered by the Departmental Promotion Committee for appointment to the next higher post viz., Deputy Commissioner, at least in the next meeting of the

Departmental Promotion Committee. Hence, interest of justice requires that Ext.P7 review petition shall be considered and final orders passed as early as possible. A time limit of three weeks from the date of receipt of a copy of the judgment is fixed for passing orders on Ext.P7. Writ petition is disposed of accordingly.

K.K.DENESAN
Judge

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